



**CITY OF LODI
COUNCIL COMMUNICATION**

TM

AGENDA TITLE: Adopt Resolution Approving the Deferral Agreement for the Victor Road Improvements for Archer Daniels Midland, 350 North Guild Avenue

MEETING DATE: February 20, 2008

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Adopt a resolution approving the attached Deferral Agreement for the Victor Road Improvements for Archer Daniels Midland, 350 North Guild Avenue, and authorizing the City Manager and City Clerk to execute the agreement on behalf of the City.

BACKGROUND INFORMATION: The Archer Daniels Midland (ADM) parcel is located at the northeast corner of Guild Avenue and Victor Road (see attached map). Phase I of the project is nearing completion and consists of an operations/distribution building, storage tank farm, boiler room, cooling towers and a rail spur extension from the existing Central California Traction Company (CCTC) mainline to the project site. Phase II will consist of a 95,000 square-foot dry goods warehouse/distribution building and Phase III will consist of a 20,000 square-foot liquid sweetener packaging/warehouse facility. Phases II and III will be market-driven expansions.

The building permits for the Phase I portion of this project were conditioned to require ADM to design and construct the off-site improvements along its Guild Avenue and Victor Road frontages. The Guild Avenue improvements are being constructed as part of the Phase I improvements. The Phase I improvements also include the installation of landscaping along ADM's south fence line. This will act as a screen between the ADM facility and Victor Road traffic. Landscaping between the future sidewalk and curb and gutter along Victor Road will be installed as part of the Deferral Agreement improvements.

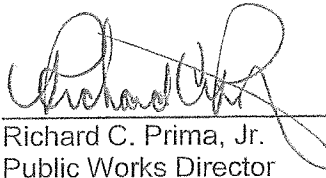
During ADM's review process with the City, Caltrans requested that the improvements along Victor Road be delayed so that it could be included as a portion of a larger widening project. The San Joaquin Council of Governments has designated the Victor Road widening project as a future Measure K project. The limits of this project will extend from State Highway 99 to the east limit of Lodi's General Plan area. ADM is proposing to work with the City and construct its Victor Road improvements as a part of this larger Measure K project. ADM is now requesting final inspection and issuance of a Certificate of Occupancy for Phase I prior to the completion of the Victor Road improvements.

The agreement, in part, states that ADM will pay for and complete the design and installation of the required improvements in conjunction with the Caltrans project or upon written request by the City or Caltrans, whichever occurs first.

Staff recommends approval of the Improvement Deferral Agreement.

FISCAL IMPACT: Not applicable.

FUNDING AVAILABLE: Not applicable.


Richard C. Prima, Jr.
Public Works Director

Prepared by Wesley Fujitani, Senior Civil Engineer
Attachments
cc: ADM
Baumbach and Piazza

APPROVED: _____
Blair King, City Manager

WHEN RECORDED, RETURN TO:

City Clerk
City of Lodi
221 West Pine Street
Lodi, CA 95240

IMPROVEMENT DEFERRAL AGREEMENT

350 North Guild Avenue, Lodi, California
(APN 049-34-036)

THIS AGREEMENT is made and entered into by and between the CITY OF LODI, hereinafter referred to as "City" and ARCHER DANIELS MIDLAND, a Delaware corporation, hereinafter referred to as "Owner".

RECITALS:

Owner is the owner of that certain real property situated in the City of Lodi, County of San Joaquin, known as 350 North Guild Avenue (APN 049-34-036) and described as follows:

Parcel One: A portion of the Southeast quarter of the Northeast quarter of Section 6, Township 3 North, Range 7 East, Mount Diablo Base and Meridian, being more particularly described as follows:

Commencing at the East quarter section corner of said Section 6; thence along the East line of said Section 6, North 00° 01' 00" West, 110.90 feet to the North line of the Union Pacific Railroad Company Right Of Way as depicted on the Map filed in Book 35 of Surveys, Page 143, San Joaquin County Records and the True Point of Beginning; thence continue North 00° 01' 00" West, 495.84 feet to a ¾ inch iron rod as depicted on that Map filed in Book 34 of Surveys, Page 131, San Joaquin County Records and making the Northeast corner of that property described in San Joaquin County Recorder's Instrument No. 01133191; thence North 88° 50' 06" West, 1317.89 feet to the center line of Guild Avenue and the Southwest corner of that Survey last described; thence along said center line, South 00° 01' 50" East, 503.34 feet to the North line of said Railroad Right of Way; thence along said North line, South 89° 09' 40" East, 1317.64 feet to the True Point of Beginning.

Subject to a public roadway over the West 40 feet thereof.

Parcel Two: A portion of the Northeast quarter of Section 6, Township 3 North, Range 7 East, Mount Diablo Base and Meridian San Joaquin County, California being more particularly described as follows:

Commencing at the Southeast corner of said Northeast quarter section; thence North 0° 01' West, along the section line 110.90 feet to the North line of the Union Pacific Right of Way as depicted on that Map filed in Book 35 of Surveys, Page 143, San Joaquin County Records; thence along said North line, North 89° 09' 40" West, 180.02 feet to the true point of beginning; thence continue North 89° 09' 40" West, 1107.62 feet to the East line of Guild Avenue (formerly Myrtle Street), 60 feet wide; thence, parallel to the East line of Guild Avenue, South 00° 01' 50" West, 40.00 feet; thence parallel to said

North line, South 89° 09' 40" East, 1107.61 feet; thence North 00° 01' West 40.00 feet to the true point of beginning.

Building applications (B19162 and B19163) has been issued for the ADM Sweetener Distribution Center Project at 350 North Guild Avenue (the "Project"). Owner is desirous of complying with existing City ordinances and policies regarding off-site improvements as set forth in Title 15, Chapter 15.444 of the Lodi Municipal Code. However, due to time constraints for completion of the Project, Owner has requested final inspection and issuance of a Certificate of Occupancy for the Project prior to the completion of the off-site improvements required with the above building permit which include those specific improvements reference on the attached Exhibit "A".

Council of the City will approve the issuance of the Certificate of Occupancy on condition that the owner first enter into and execute this agreement with the City.

NOW THEREFORE, in order to insure satisfactory performance by Owner of Owner's obligations under said City Code, the parties agree as follows:

1. Owner will pay for and complete the improvements listed in Exhibit "A" (Victor Road (Hwy 12) Deferral Improvement Engineer's Estimate prepared by Baumbach and Piazza, Inc. and dated 2-1-08) in conjunction with street widening improvements on Victor Road between the Central California Traction Company and State Highway 99 or within 120 days of written request by the City or Caltrans, whichever occurs first. The engineer's estimate for the Victor Road improvements is \$628,189. This estimate shall be adjusted annually on January 1 using the ENR 20-City Construction Cost Index. This Construction Cost Index is currently 8090.06. ADM shall deposit with the City a cash security in the amount of the engineer's estimate, should ADM not perform the work with its own contractor.
2. This agreement shall run with the land and be binding on the Owner, its heirs, successors or assigns.
3. If Owner fails to complete the required improvements within the time period specified in the written request noted in Item #1 above, the City is hereby authorized to complete the improvements for the account at the expense of Owner, and may file suit against Owner, its heirs, successors or assigns for the costs incurred, as well as for a reasonable sum to be allowed as and for the City's attorney fees incurred in connection with such litigation for the collection of the monies due or may file a lien against said property for the costs incurred to the extent such costs exceed the deposit called for in Paragraph 1.
4. A copy of the Agreement shall be recorded in the office of the San Joaquin County Records, P. O. Box 1968, Stockton, California 95201-1968.
5. All notices herein required shall be in writing, and delivered in person or sent by registered mail, postage prepaid.

Notices required to be given to City shall be addressed as follows:

Richard C. Prima, Jr.
Public Works Director
City of Lodi
P. O. Box 3006
Lodi, CA 95240-1910

Notices required to be given to Owner shall be addressed as follows:

Archer Daniels Midland
350 North Guild Avenue
Lodi, Ca. 95240

IN WITNESS WHEREOF, the parties hereto have set their hands the day, month and year appearing opposite their names.

CITY OF LODI, a Municipal Corporation

Dated: _____ 2008

By: _____
Blair King, City Manager

Attest: _____
Randi Johl, City Clerk

Owner

Dated: _____ 2008

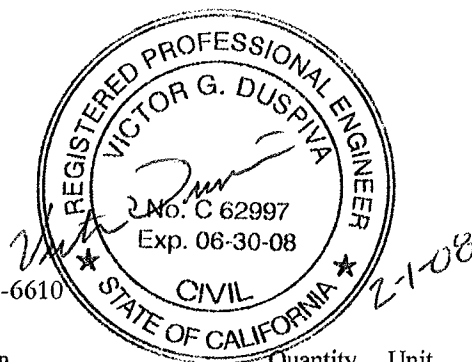
ARCHER DANIELS MIDLAND

Approved as to form: _____
D. Stephen Schwabauer, City Attorney

Dated: _____ 2008

Exhibit A

Baumbach & Piazza, Inc.
Civil Engineers
323 West Elm Street
Lodi, CA 95240
(209) 368-6618 – Fax (209) 368-6610



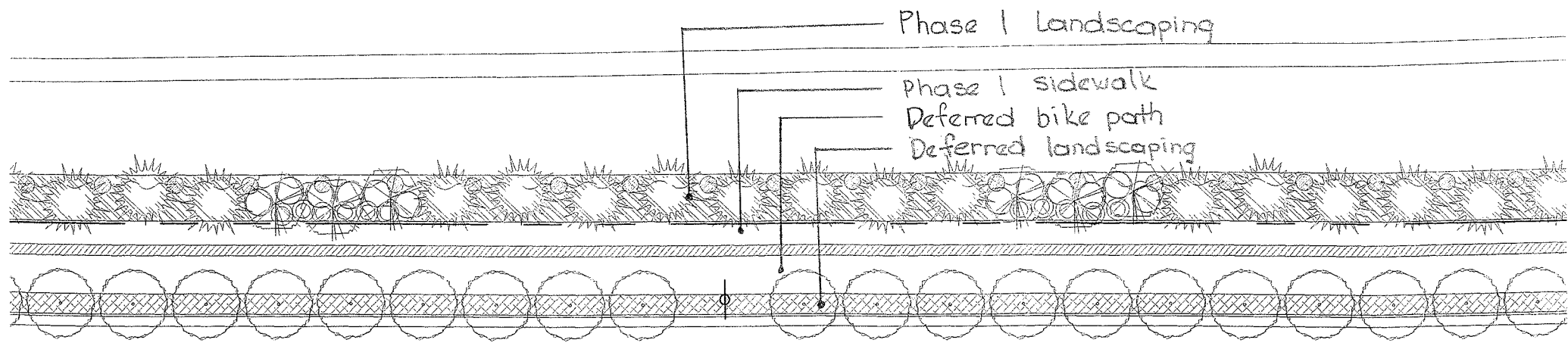
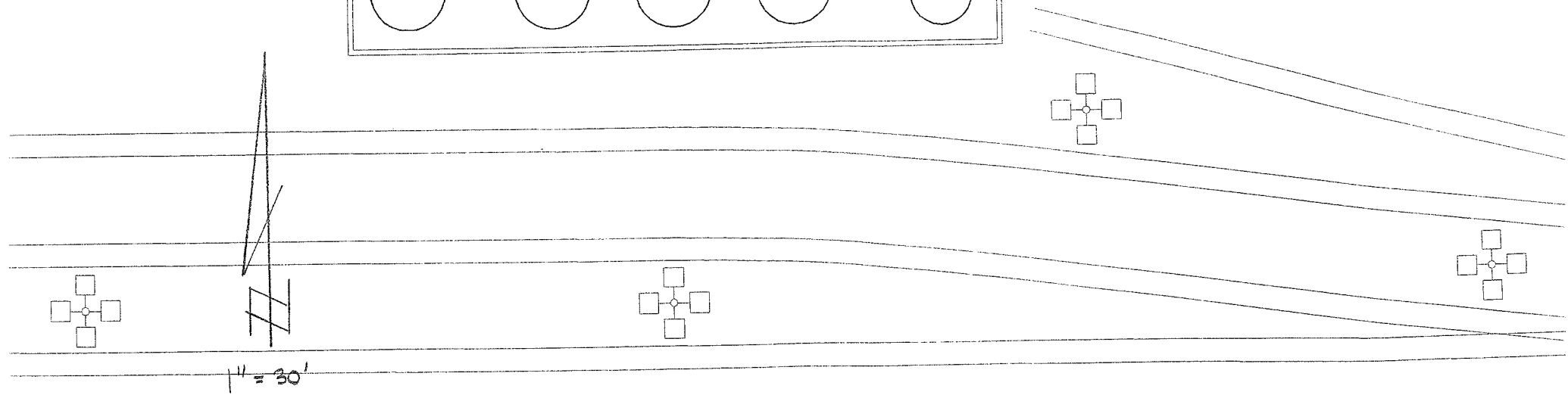
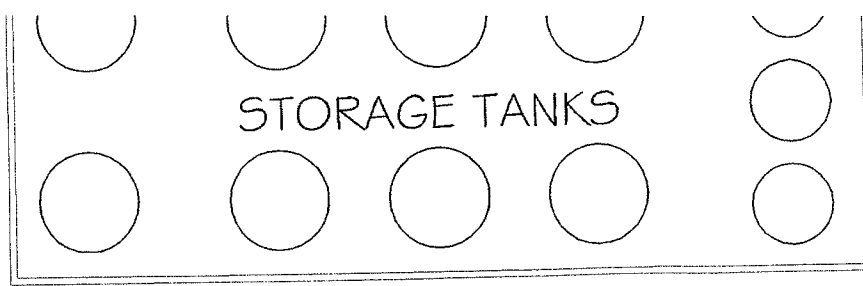
Engineer's Preliminary Cost Estimate
for Probable Construction Costs

ADM - Lodi Site
Job Number: 05092

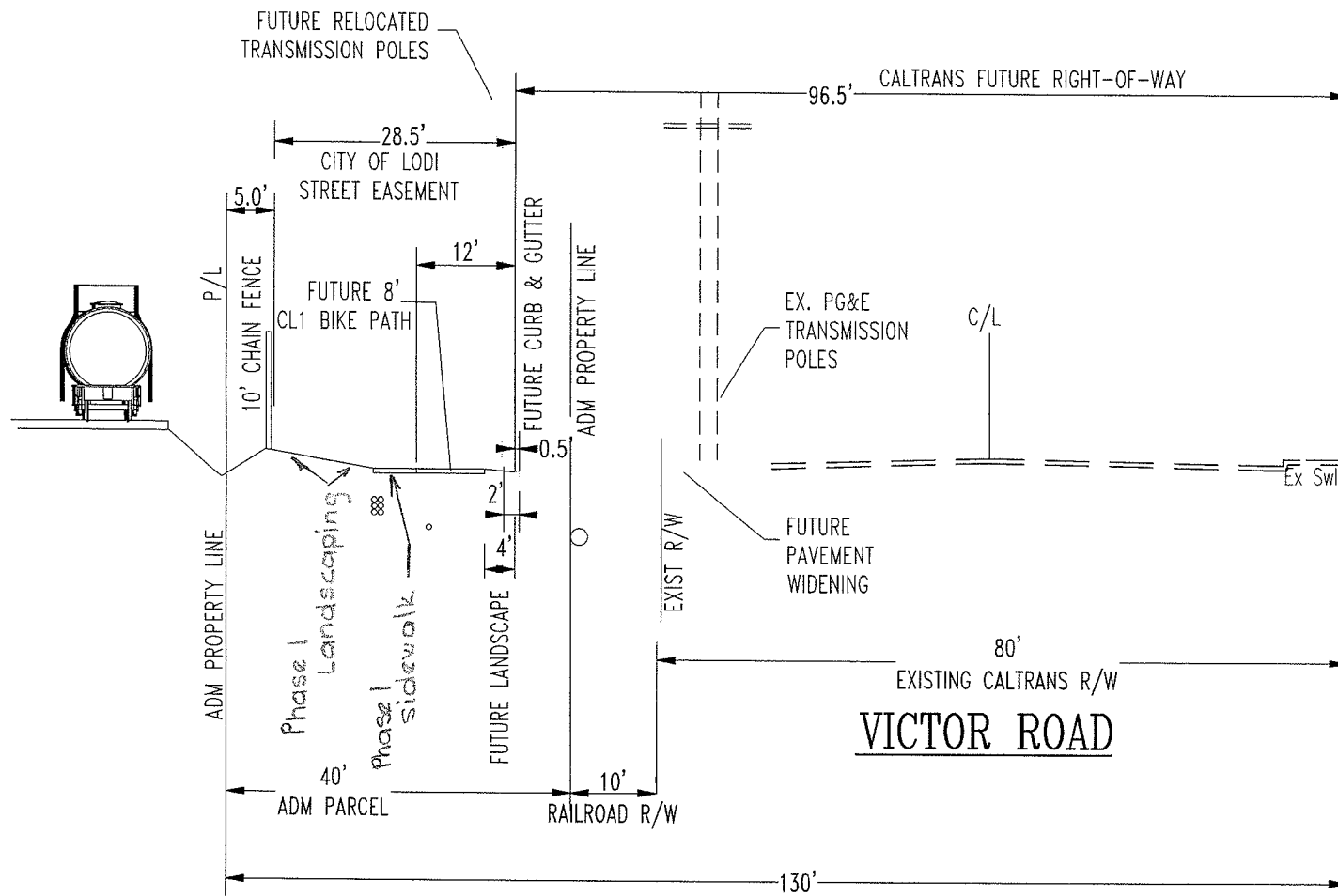
Item	Description	Quantity	Unit	Unit Price	Total
Victor Road (Hwy 12) - Deferred Improvement Engineer's Estimate					
Street Improvements					
1	Roadway Excavation	1,000	C.Y.	\$ 20.00	\$ 20,000.00
2	Sawcut & Remove Existing AC	11,330	S.F.	\$ 5.00	\$ 56,650.00
3	0.50' Compact Native Material	31,530	S.F.	\$ 0.25	\$ 7,882.50
4	0.50' Compact Original Ground	39,802	S.F.	\$ 0.20	\$ 7,960.40
5	0.20' AC	8,272	S.F.	\$ 1.25	\$ 10,340.00
6	0.58' AC	40,785	S.F.	\$ 1.90	\$ 77,491.50
7	0.30' AB	8,272	S.F.	\$ 0.60	\$ 4,963.20
8	0.7' AB	31,530	S.F.	\$ 1.20	\$ 37,836.00
9	Remove Ex 6" AC Dike	39	L.F.	\$ 10.00	\$ 390.00
10	Vertical C & G	1,034	L.F.	\$ 22.00	\$ 22,748.00
11	Sidewalk (5')	5,325	S.F.	\$ 5.50	\$ 29,287.50
12	Commercial Driveway	1	EA.	\$ 2,500.00	\$ 2,500.00
13	Concrete Subgrade Compaction	5,725	S.F.	\$ 2.50	\$ 14,312.50
14	Mast Type Street Lights (250 W)	12	EA.	\$ 2,500.00	\$ 30,000.00
15	Remove Sidewalk	57	L.F.	\$ 6.00	\$ 342.00
16	Relocations: MB, Signs, CB, etc.	3	EA.	\$ 300.00	\$ 900.00
17	Landscape and Irrigation	4,148	S.F.	\$ 10.00	\$ 41,480.00
18	Traffic Striping and signage	1	L.S.	\$ 5,000.00	\$ 5,000.00
19	Handicap Ramp	1	EA.	\$ 2,000.00	\$ 2,000.00
20	Traffic Signal (25%)	1	L.S.	\$ 75,000.00	\$ 75,000.00
21	Transmission power pole relocation	6	EA.	\$ 25,000.00	\$ 150,000.00
22	Remove and Replace Gas Vault	1	EA.	\$ 3,500.00	\$ 3,500.00
Subtotal				\$	600,584
Storm Drainage Improvements					
23	12" Storm Drain	3	L.F.	\$ 35.00	\$ 105.00
24	Adjust Manhole Frame to Grade	2	EA.	\$ 500.00	\$ 1,000.00
25	Side Inlet Catch Basin	1	EA.	\$ 2,000.00	\$ 2,000.00
Subtotal				\$	3,105
Sanitary Sewer Improvements					
26	Adjust SSMH to Grade	1	EA.	\$ 500.00	\$ 500.00
Subtotal				\$	500
Water Improvements					
27	Fire Hydrant Assembly	3	EA.	\$ 3,000.00	\$ 9,000.00
28	Water Hot Tap	3	EA.	\$ 5,000.00	\$ 15,000.00
Subtotal				\$	24,000
TOTAL				\$	628,189

2/1/2008

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VICTOR ROAD



VICTOR ROAD

DEFERRED IMPROVEMENT EXHIBIT
FOR ADM 350 N GUILD AVE



PREPARED IN THE OFFICE OF:

BAUMBACH & PIAZZA, INC.

CIVIL ENGINEERS

323 WEST ELM STREET

LODI, CALIFORNIA 95240

RESOLUTION NO. 2008-_____

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING
IMPROVEMENT DEFERRAL AGREEMENT FOR VICTOR
ROAD IMPROVEMENTS FOR ARCHER DANIELS MIDLAND,
350 NORTH GUILD AVENUE

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BE IT RESOLVED that the Lodi City Council hereby approves the Improvement Deferral Agreement between the City of Lodi and Archer Daniels Midland for the Victor Road improvements for the facility located at 350 North Guild Avenue, Lodi, on file in the office of the City Clerk; and

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute the agreement on behalf of the City of Lodi.

Dated: February 20, 2008

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I hereby certify that Resolution No. 2008-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held February 20, 2008, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

2008-_____